

HOUSE BILL 2479
By Ritchie

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 7, relative to health insurance for consumers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, is amended by adding the following as a new, appropriately designated section:

(a) This act shall be known and may be cited as the "Patient Freedom of Choice Act of 1998".

(b) The general assembly declares it to be the policy of the state of Tennessee that patients should have the freedom of choice to select the health care provider of their choice and that all health insurance companies, managed care organizations, health maintenance organizations and all other entities providing health care insurance or coverage of any kind within Tennessee must not issue insurance policies, plans, agreements, arrangements or health care plans which contain terms or conditions that would operate to unreasonably restrict the access and availability of health care services for the insured.

(c) As used in this act, the following definitions apply:

(1) "Health care services" means health care services or products rendered or sold by a provider within the scope of the provider's license or legal authorization. The term includes, but is not limited to, hospital, medical, surgical, dental, vision, chiropractic and pharmaceutical services or products.

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(2) "Health care plan" means any arrangement whereby any person or entity regulated by Chapters 7, 19, 26, 27, 28, 29, or 32 of Title 56 undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services.

(3) "Insurer" means any health or disability insurance company, health service corporation, or similar entity which is licensed by this state to issue policies or subscriber contracts that reimburse for expenses of health care services.

(4) "Insured" or "beneficiary" means any individual or patient entitled to reimbursement for expenses of health care services under a policy, subscriber contract, or similar agreement issued or administered by any insurer. This definition includes, without limitation, an individual entitled to reimbursement for expenses of health care services under a program where such individual has an incentive to utilize the services of a provider which has entered into an agreement or arrangement with an administrator under a health care plan.

(5) "Provider" or "health care professional" means an individual or entity duly licensed and qualified by the appropriate licensing board to provide medical treatment services in accordance with the procedures required for such health care professional in Title 63, as now or hereafter amended.

(d)

(1) On and after the effective date of this act, all insurance policies, plans, and contracts and all health care plans issued for delivery to insureds or policyholders in, or regulated by, this state which provide health care coverage for the diagnosis or treatment of any illness or injury to the human body shall provide each person benefiting from the coverage, the freedom of choice to seek treatment from any qualified health care professional the person chooses if such health care professional is willing to provide health care services to such insured

or policyholder and agrees to all the terms and conditions of the insurer or health care plan which insures or covers the insured or policyholder, except as provided for in subdivision (2)(B) of this subsection.

(2)(A) In order to permit the patient freedom of choice to seek treatment from any qualified, willing health care professional in accordance with the provisions of subdivision (1) above, no insurance policies, plans, or contracts and no health care plans issued for delivery in this state which provide health care coverage for the diagnosis or treatment of any illness or injury to the human body shall limit participation in the policy or plan to only those health care professionals selected by the insurer.

(B) Notwithstanding subdivision (1) above, if an insurer or health care plan provides a method of registration by which any health care professional or provider may register to participate with the insurer or in the plan, the health care insurer or plan may exclude any health care professional or provider who has not registered. Furthermore, the insurer or health care plan may exclude any health care professional or provider who either refuses to accept the payment schedule prescribed by the insurer or health care plan, or who has been deemed by a federal or state agency to have defrauded other insurance companies or plans (whether private or governmentally issued), or who the insurer or health care plan reasonably deems to present an undue risk of medical malpractice, based on objective standards as determined and promulgated by the commissioner of commerce and insurance after notice and comment, to insured persons.

SECTION 2. The provisions of this act shall not be construed to enlarge or otherwise alter the privileges, immunities, or practice rights or the license of any health care professional or provider as defined by the laws of this state.

SECTION 3.

(a) The commissioner of commerce and insurance shall approve for sale in this state only those insurance policies, plans, and contracts for health care services or those health care plans which conform to the provisions of this act.

(b) The commissioner of commerce and insurance shall promulgate rules and regulations in accordance with the uniform administrative procedures act, title 4, chapter 5, to accomplish the effect and intent of this act.

SECTION 4. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect July 1, 1998, the public welfare requiring it and shall apply to all insurance policies, plans, and contracts and all health care plans renewed, delivered or issued for delivery in this state on and after the effective date of this act.